

E-FILED - 7/29/11

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES EDWARD WILLIAMS,)	No. C 10-2715 RMW (PR)
)	
Plaintiff,)	ORDER ADDRESSING
)	PENDING MOTIONS
v.)	
)	
DOCTOR TABBAA MUMTAZ, et al.,)	(Docket No. 49)
)	
Defendants.)	
_____)	

Plaintiff, a state prisoner proceeding pro se, filed an amended civil rights complaint pursuant to 42 U.S.C. § 1983. In his amended complaint, plaintiff alleges that several medical professionals have exhibited deliberate indifference to his serious medical needs. Defendants have filed a motion to dismiss, or, in the alternative, a motion for summary judgment. Plaintiff has filed several pleadings that will be addressed in this order.

A. Motion for Protection Order

In his motion, plaintiff claims that Correctional Officer Perez, a non-defendant, threatened him, in conjunction with a medical doctor, to forfeit the lawsuit. Plaintiff alleges that after Perez's threat and subsequent assault and battery, he became fearful of his life. The court construes his motion as one for a temporary restraining order or motion for preliminary injunction. As such, plaintiff's motion is DENIED. Rather than stating grounds for a preliminary injunction, plaintiff has stated grounds for a new civil rights action involving persons and circumstances different from those in the present action. If plaintiff wishes to seek relief for such claims, he must file a new and separate civil action from the instant matter.

1 B. Unserved Defendants

2 On May 4, 2011, the court granted plaintiff a second extension of time to provide the
3 accurate and current location information for unserved defendants Kushner and Muhammad. On
4 May 5 and May 11, 2011, plaintiff requested that the court compel the CDCR to provide that
5 information so that the Marshal could serve Kushner and Muhammad. The Litigation
6 Coordinator for the Salinas Valley State Prison advised that personnel records for that facility do
7 not reflect employment of a person with the name of R. Muhammad. However, Dr. R.
8 Muhammad's name is on the Medication Administration record for plaintiff.

9 In the interest of expediting proceedings, **the Clerk of the Court shall send a copy of**
10 **this order to the Litigation Coordinator at Salinas Valley State Prison, who is requested to**
11 **provide to the court, under seal, any forwarding address information and last known**
12 **address that is available with respect to R. Muhammad within thirty days from the filing**
13 **date of this order. The Clerk of the Court shall also send a copy of this order to the**
14 **Litigation Coordinator at Pleasant Valley State Prison, who is requested to provide to the**
15 **court, under seal, any forwarding address information and last known address that is**
16 **available with respect to N. Kushner within thirty days from the filing date of this order.**

17 Upon receipt of such information, the court will order the Marshal to serve defendants R.
18 Muhammad and N. Kushner at the provided addresses. It is however, ultimately plaintiff's
19 responsibility to provide sufficient information to allow the Marshal to locate and serve
20 defendants. In light of plaintiff's status in administrative segregation, the court will sua sponte
21 grant him one final extension of time to provide sufficient information regarding the unserved
22 defendants' accurate and current locations. If no further information is available from the
23 Litigation Coordinators, and if plaintiff fails to provide the requested information **within thirty**
24 **days** of the filing date of this order, defendants R. Muhammad and N. Kushner will be dismissed
25 without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

26 C. Miscellaneous Requests / Extension of Time

27 On May 11 and May 13, 2011, Plaintiff notified the court that SVSP had placed him in
28 administrative segregation and confiscated his legal materials. Plaintiff further alleged that he

1 was not permitted to visit the library. He requested the court to intervene and direct the CDCR
2 to return all his legal materials and allow him to access the law library. Plaintiff also requested a
3 stay of this case because his placement in administrative segregation and lack of legal materials
4 inhibited his ability to file a timely opposition to defendants' motion for summary judgment. On
5 July 7, 2011, plaintiff filed an opposition to defendants' May 6, 2011 dispositive motion. On
6 July 13, 2011, plaintiff notified the court that he had received his legal materials and was
7 allowed access to the law library, but apologized for his untimely opposition to the dispositive
8 motion.

9 The court construes his pleading as a motion for extension of time. So construed, the
10 motion is granted. Plaintiff's opposition is deemed timely.

11 IT IS SO ORDERED.

12 DATED: 7/28/11


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JAMES EDWARD WILLIAMS JR,
Plaintiff,

Case Number: CV10-02715 RMW

CERTIFICATE OF SERVICE

v.

TABBAA MUMTAZ et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 29, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James Edward Williams V-54214
Salinas Valley State Prison
Housing: A-5-143
P.O. Box 1050
Soledad, CA 93960

Dated: July 29, 2011

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk